

**Notice of Allowability**

Application No.

10/551,819

Examiner

ILIA OUSPENSKI

Applicant(s)

BOUREL ET AL.

Art Unit

1644

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/07/2009.
2. ☒ The allowed claim(s) is/are 1-3,48-51,57-60,94 and 97.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.
- Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 10/07/2009
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_.

/ILIA OUSPENSKI/  
Primary Examiner, Art Unit 1644

### **DETAILED ACTION**

1. This Office Action is in response to the telephone interview with Applicant's Representative Rouget F. Henschel on 10/07/2009. The substance of the interview is addressed in section 5 below.

2. Claims 1 – 3, 48 – 51, 57 – 60, 64 – 94 and 97 are pending.

Claims 64 – 93 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected Inventions. Election was made without traverse in the reply filed on 05/21/2008.

Claims 1 – 3, 48 – 51, 57 – 60, 94 and 97 are under consideration.

3. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the Issue Fee. Authorization for this Examiner's Amendment was given by Applicant's Representative Rouget F. Henschel in a telephone interview with the Examiner on 10/07/2009.

#### ***Examiner's Amendment***

##### In the Claims:

4. Claims 64 – 93 have been canceled.

***Reasons for Allowance***

5. The following is an Examiner's Statement of Reasons for Allowance:

Upon reconsideration in view of Applicant's arguments presented in a telephone interview with the Examiner on 10/07/2009, the instant claims are deemed to be patentably distinct from the claims of Applications 10/257,477 (now Patent No. 7,579,170) and 11/517,525 (now Patent No. 7,541,029), for the following reasons: The instant claims are directed to a method of making antibodies which do not bind or bind only weakly to FcgammaRIIIA, whereas the claims of the Patents are directed to methods wherein the recited antibodies preferentially bind to FcgammaRIII. Therefore, the rejection of record on the ground of non-statutory double patenting has been withdrawn.

***Claims 1 – 3, 48 – 51, 57 – 60, 94 and 97 are allowed.***

The prior art does not teach or suggest the claimed method of preparing antibodies.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ILIA OUSPENSKI whose telephone number is (571)272-2920. The examiner can normally be reached on Monday-Friday 9 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram R. Shukla can be reached on 571-272-0735. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ILIA OUSPENSKI/

ILIA OUSPENSKI, Ph.D.

Primary Examiner

Art Unit 1644

October 8, 2009